

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF NEVADA

3 UNITED STATES OF AMERICA,

4 Plaintiff

5 v.

6 MARQUIS LAMAR FRANKLIN,

7 Defendant

Case No.: 2:17-cr-00333-APG-PAL

**Order Denying in Part Motion for Time
Credit Against Sentence**

[ECF No. 75]

8 Defendant Marquis Lamar Franklin submitted a letter that I am treating as a motion
9 requesting credit for 68 days he spent in federal custody before being returned to state custody.
10 ECF No. 75. The Government opposes. ECF No. 78.

11 I sentenced Franklin on September 6, 2018. ECF No. 39. The Government is correct that
12 I varied downward in my sentence in part to reflect some of the time Franklin had been in federal
13 custody on a writ from state custody. But I also specified in the Judgment that his federal
14 sentence should be deemed to begin to run on August 9, 2018, while he was still in federal
15 custody under the writ. *Id.* at 2. Franklin apparently was not transferred back to state custody
16 until October 15, 2018. ECF No. 75. If Franklin received credit against his state custody for the
17 period August 9, 2018 to October 15, 2018, then he should not receive credit for that time against
18 his federal sentence because I ordered the federal sentence to run consecutive to the state
19 sentence. But if Franklin did not receive credit for that period against his state sentence, then he
20 should receive it as credit against his federal sentence. Even though I varied downward to
21 account for some of his time in federal custody on the writ, I stated in the judgment that his
22 federal sentence should be deemed to begin on August 9, 2018. If the August 9, 2018 to October
23

1 15, 2018 period is not counted against either sentence, then Franklin may have overserved his
2 sentence.

3 I do not know whether the federal Bureau of Prisons or the state counterpart credited
4 Franklin for this time. Thus, I cannot grant his request to credit that time against his current
5 sentence. I will, as I must, defer to the Bureau of Prisons to calculate Franklin's incarceration
6 time. Hopefully, this order will aid the Bureau in that calculation.

7 I THEREFORE ORDER that Franklin's motion for time credit against his sentence (**ECF**
8 **No. 75**) is denied without prejudice.

9 Dated this 28th day of September, 2021.

10 

11 ANDREW P. GORDON
12 UNITED STATES DISTRICT JUDGE
13
14
15
16
17
18
19
20
21
22
23